

Eric H. Gibbs (State Bar No. 178658)
ehg@girardgibbs.com
Philip B. Obbard (State Bar No. 135372)
David Stein (State Bar No. 257465)
GIRARD GIBBS LLP
601 California Street, 14th Floor
San Francisco, California 94104
Telephone: (415) 981-4800
Facsimile: (415) 981-4846

Interim Lead Class Counsel

Robert A. Mittelstaedt (State Bar No. 60359)
ramittelstaedt@jonesday.com
Craig E. Stewart (State Bar No. 129530)
JONES DAY
555 California Street, 26th Floor
San Francisco, CA 94104
Telephone: (415) 626-3939
Facsimile: (415) 875-5700

*Attorneys for Defendants Interstate Battery System of
America, Inc., and Interstate Battery System International, Inc.*

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

DENO MILANO,

Plaintiff,

vs.

INTERSTATE BATTERY SYSTEM OF
AMERICA, INC.; INTERSTATE BATTERY
SYSTEM INTERNATIONAL, INC.,

Defendants.

Case No. C 10-02125 CW

**STIPULATION TO TAKE MOTION OFF
CALENDAR, AND [~~PROPOSED~~] ORDER**

(LOCAL RULE 7-12)

1 Plaintiff Deno Milano and Defendants Interstate Battery System of America, Inc., and Interstate
2 Battery System International, Inc., by and through the undersigned attorneys hereby agree and stipulate
3 as follows:

4 WHEREAS, the parties have been working for several months to finally resolve this case on a
5 classwide basis, including an initial settlement discussion in February 2011, and a series of mediation
6 sessions with the Hon. William J. Cahill (Ret.) of JAMS;

7 WHEREAS, this settlement contemplates comprehensive injunctive relief, which includes
8 several different component parts, and the process for negotiating and memorializing the various parts of
9 the settlement agreement has therefore required lengthy negotiations, many drafts and revisions to the
10 settlement agreement, and several consultations between defense counsel and the Defendants;

11 WHEREAS, recently, through the course of drafting the settlement agreement, the parties
12 identified some additional issues that have required thought and additional negotiation;

13 WHEREAS, having discussed and resolved most of these issues, the parties have begun drafting
14 additional provisions in the settlement agreement to address these new issues;

15 WHEREAS, the Further Case Management Conference, originally scheduled for July 14, 2011,
16 has been rescheduled for August 25, 2011;

17 WHEREAS, also on calendar for August 25, 2011, is a hearing on the parties' motion for
18 preliminary approval of classwide settlement, with the deadline for filing that motion falling on August
19 4, 2011;

20 WHEREAS, the parties anticipate that they will have a final settlement agreement, with
21 accompanying exhibits, completed and executed by the end of August, and are hopeful it will be
22 completed by the August 25, 2011, hearing;

23 WHEREAS, the parties wish to appear as scheduled on August 25, 2011, to provide the Court
24 with a report on the status and nature of the proposed settlement, at which time a schedule can be set for
25 all remaining needed deadlines including for the preliminary approval motion; and

26 WHEREAS, alternatively, if the Court desires, the parties will appear for a status conference on
27 an earlier date, such as August 9, 2011, or another day that is available to the Court, to provide
28 information about their ongoing efforts.

1 **IT IS HEREBY STIPULATED AND AGREED**, by and through the undersigned attorneys for
2 the parties, subject to the Court's approval, that:

- 3 1. The parties shall appear as scheduled on August 25, 2011, at a Further Case Management
4 Conference;
5 2. The parties shall file a joint status report no later than August 19, 2011; and
6 3. The parties' motion for preliminary approval shall be taken off calendar, to be re-set at or
7 following the Further Case Management Conference.

8 **IT IS SO STIPULATED.**

9 DATED: August 1, 2011

GIRARD GIBBS LLP

10 By: /s/ Eric H. Gibbs

11 Philip B. Obbard
12 David Stein
13 601 California Street, Suite 1400
14 San Francisco, California 94104
15 Telephone: (415) 981-4800
16 Facsimile: (415) 981-4846

Interim Lead Class Counsel

16 DATED: August 1, 2011

JONES DAY

17 By: /s/ Craig E. Stewart

18 Robert A. Mittelstaedt
19 555 California Street, 26th Floor
20 San Francisco, CA 94104
21 Telephone: (415) 626-3939
22 Facsimile: (415) 875-5700

Attorneys for Defendants

23
24 **PURSUANT TO STIPULATION, IT IS ORDERED.**

25
26
27 Date: 8/12/2011



Judge Claudia Wilken
United States District Judge